

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Martin Avila,

Plaintiff,

vs.

C.A. No. 0:10-2370-HMH-PJG

OPINION & ORDER

Edgefield Federal Prison;

Mrs. Mary Mitchell, Warden;

Mr. Acosta, Assist. Warden;

Mr. Collie, Capt.;

Mr. Clark, Lt.;

Mr. Hollet, Lt.;

Mr. Neal, C Unit Manager;

Mr. H. Koger, III, B Unit Manager;

Mrs. S. Cheek, B Case Manager;

Mr. J. Bryant, B Counselor;

Mr. Johnson, C Counselor;

Mr. Santiago, SIS;

Mr. Roper, Unit Officer;

Mr. Upson, Unit Officer;

Mr. Flores, Unit Officer;

Mr. Kate, Unit Officer;

Mrs. Martin, Unit Officer;

Mr. Green, Unit Officer;

Mr. Evans, Unit Officer;

Mrs. Jackson, Unit Manager;

Mr. Fallen, Assist. Warden;

Mr. S. Smith, Recreation;

Mr. T. Nixon;

Mr. J. Sullivan;

Mr. Spark;

Mrs. Lathrop;

Mr. L. Morgan, Unit Officer;

Mr. Wilson, Unit Officer;

Mr. Burkett, B;

Mr. Burkett;

Mrs. V. Kepner, Education,

Defendants.

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.¹ Martin Avila (“Avila”), a federal prisoner proceeding pro se, alleges that Defendants violated his constitutional rights and brings this action pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). On September 13, 2010, Avila filed a motion for a preliminary injunction and temporary restraining order. In her Report and Recommendation, Magistrate Judge Gossett recommends denying Avila’s motion. Avila filed objections to the magistrate judge’s Report on February 11, 2011.²

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Avila’s objections to the magistrate judge’s Report and Recommendation are non-specific and unrelated to the dispositive portions of the Report.

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² See Houston v. Lack, 487 U.S. 266 (1988).

Therefore, after a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Gossett's Report and Recommendation.

It is therefore

ORDERED that Avila's motion for preliminary injunction and temporary restraining order, docket number 3, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
February 17, 2010

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.